

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
July 8, 2014

4:00 P.M. WORK SESSION – PUBLIC SAFETY TRAINING ROOM

CONDUCTING	Mayor Richard F. Brunst, Jr.
ELECTED OFFICIALS	Councilmembers Hans Andersen, Margaret Black, Mark E. Seastrand, David Spencer, and Brent Sumner
APPOINTED STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Bill Bell, Development Services Director; Jason Bench, Planning Division Manager; Karl Hirst, Recreation Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Library Director; Steven Downs, Assistant to the City Manager; Paul Goodrich, Transportation Engineer; Brandon Nelson, Financial Division Manager; and Taraleigh Gray, Deputy City Recorder
EXCUSED	Councilmember Tom Macdonald

DISCUSSION – CARE Advisory Commission

Mayor Brunst called the work session to order at 4:07 p.m.

Steven Downs presented to the City Council recommendations for the CARE Advisory Commission. A resolution was passed August 2, 2013, in which “The City Council expressed its intent to create a citizens’ CARE Tax Advisory Commission to make recommendations to the City Council regarding how CARE funding should be allocated. The CARE Tax Advisory Commission will actively seek input from recreational organizations, cultural arts organizations and citizens, and will consider priorities outlined in the Strategic Plans of the Recreation Advisory Commission and the Orem Arts Council, before making its recommendations to the City Council.”

Mr. Downs reported reaching out to neighboring communities to get input and information on methods other municipalities have used in allocating CARE-type funds.

Mr. Downs made the recommendation to the Council that the commission be made up of seven individuals. He provided the following information:

- One representative from both the arts and recreation communities that did not have a direct benefit from the allocation would be asked to serve.
- Names of other potential citizens to serve on the commission would be brought forward through a recruitment process and from Council recommendations.

- One staff liaison would serve on the council. Staff liaison would be responsible for organizing the administrative portion of the process, compiling and distributing information, scheduling meetings and so on.

The general responsibilities of the commission would be:

- Understand the priorities outlined in the arts and recreation strategic plans
- Meet with organizations and review all applications for CARE funding
- Make recommendation for funding to the City Council

Other responsibilities of the commission would include:

- Arts Representative
 - Each commission member would be assigned two or three organizations to be the “lead reviewer” and would be encouraged to attend meetings, events, facility tours, etc.
 - During the application process the lead reviewer, in conjunction with the applicant, would take the lead on the discussion of each application with the commission
- Recreation Representative
 - Two commission members invited to attend the recreation board’s meetings to evaluate recreation needs in the community
 - During the application process the assigned commission members take the lead, in conjunction with the recreation board, to discuss the applications/priorities set forth by the recreation commission
- City Council
 - Mayor and City Council will be given all application materials & summaries
 - The CARE Tax Advisory Commission will present their recommendation to the City Council for consideration
 - The City Council will ultimately vote on each annual allocation

Mr. Downs said the biggest change would be that the presentations would no longer go directly through the City Council. He noted that Salt Lake County had seen success in operating with “lead reviewers.”

Mayor Brunst said he liked the way the commission was looking and how people would be involved throughout the year in order to gain more experience.

Mrs. Black said she thought the City Council should have some responsibility to see that things were happening. She felt the Council should go around and attend as many events as possible. She did not think it was wise for one Councilmember to become a cheerleader for any specific CARE recipient.

Mayor Brunst said the importance was having involvement.

Mrs. Black said CARE was directly taxing citizens, and the elected officials really should be responsible for where that collected tax money went.

Mr. Spencer suggested assigning two Council members to sit and listen to presentations.

Mr. Seastrand the Council had been charged with establishing and prioritizing the vision, executing the vision, setting priorities, and getting involved with the programs. The Arts Council did a fair amount of program management. Mr. Seastrand said he had trouble seeing how the Council would create a strategic plan which would be handed over to another group that controlled the funding. Mr. Seastrand questioned if the process of having a separate group minimized the impact of what the Recreation Advisory Commission and the Arts Council were doing. He did not want to minimize the roles of those serving.

Mayor Brunst said he did not see it as someone else deciding; the CARE commission would just be advisory. A CARE advisory commission was worth a try.

Mrs. Black said once it was turned it over, the people would the responsibility of allocating the funds. In the past the City Council did not typically make many changes to what was presented to the Council.

Mr. Spencer said he thought the previous committee had worked well.

Mayor Brunst said he was looking at it from experience, using them as an advisory, but did not intend to lessen the City Council's role by much.

Mr. Davidson said the purpose of the conversation was to develop details to include in an ordinance. The Council would have to actually create the commission in order to see how it did.

Mr. Seastrand said it seemed there would be some collaboration between the groups involved, namely between the CARE Advisory Commission and the Arts Council and Recreation Advisory Commission.

Karl Hirst, recreation director, said there would be collaboration, but the City Council would still have the final say.

Charlene Crozier, library director, added that there would be a fine role in the mentoring of the groups, and that the community advocacy role would be very helpful. The City Council did not have the time available to provide that kind of mentoring needed. Through the advisory commission, the groups might gain any redirection necessary to accomplish the goal.

Mrs. Black said she liked the idea of a CARE Advisory Commission better as it was discussed.

Mr. Andersen asked about the recruitment process.

Mayor Brunst said interested people would fill out a form, and the Council would have time to review the completed forms.

Mrs. Black asked if staff had any suggestions as to who might serve.

Mr. Davidson said staff would go through the process as it was set up. The Council knew the community very well and there might be individuals the Council had in mind. He encouraged the Council to encourage those people to apply.

Mr. Spencer asked if there would be a Council liaison.

Mayor Brunst said he also thought it would be good to have a City Council liaison.

Mrs. Black said the City Council liaison should not influence the recommendations of the commission.

Mr. Davidson said that, in keeping with the spirit of the advisory group, the check would happen at the advisory level. That said, it might not be necessary to have a liaison.

Mr. Seastrand and Mrs. Black said they agreed with Mr. Davidson.

Mr. Hirst discussed the make-up of the RAAC. Staff was looking at having three people serve from the Recreation Advisory Commission, with one city representative, and three citizens.

Mr. Seastrand asked how soon the RAAC vacancies needed to be filled.

Mr. Hirst said as soon as possible would be ideal.

Mayor Brunst added that it should be taken care of by August 26, 2014.

DISCUSSION – City Audit Committee

Richard Manning, Administrative Services director, led a discussion on the City Audit Committee. He said the purposes of developing a process for selecting an audit firm was to ensure the City got the most bang for its auditing buck. Mr. Manning gave the following background information:

- Audit is for the City Council
- Audit is required by the State
- Language in existing City policy needed updating

Mr. Manning said the current policy recognized by the city was that auditors served for a minimum of three years, the City was required to change auditors every five years, and the auditing firm must have significant governmental auditing experience. Mr. Manning presented the following proposed policy:

- Five-year contract
- Can add up to two one-year extensions
- Must change audit firm every seven years
- Audit firm must have significant governmental auditing experience
- Update names of accounting governing bodies
- Audit committee: two elected officials, and City Manager or Assistant City Manager.

Mayor Brunst asked what audit firm had been serving the City.

Mr. Manning said it was Keddington and Christianson.

Mayor Brunst asked if they were involved with UTOPIA.

Mr. Manning said they were, but it was happenstance that the firm served both the City and UTOPIA. Mr. Manning then said that if audit services were sent out to bid, he estimated seven to eight firms would respond to the RFP. The approximate cost for an audit was approximately \$21,000. With the new proposal, the only firm not eligible to respond to that RFP would be the current firm serving the City.

Mrs. Black said she assumed the length of time an audit firm could serve was really the only thing being changed.

Mr. Davidson added that it would make sense to set the criteria prior to going out to bid.

Mr. Manning echoed Mr. Davidson, saying those who bid would base responses on the City's criteria.

Mr. Andersen asked about taking lower bids historically.

Mr. Manning said the price would be the first deciding factor, but looking at proposals required qualifications to be examined as well, to ensure the respondents could perform the audit functions the City was in need of.

5:00 P.M. STUDY SESSION- PUBLIC SAFETY TRAINING ROOM

CONDUCTING	Mayor Richard F. Brunst, Jr.
ELECTED OFFICIALS	Councilmembers Hans Andersen, Margaret Black, Mark E. Seastrand, David Spencer, and Brent Sumner
APPOINTED STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Library Director; Steven Downs, Assistant to the City Manager; and Taraleigh Gray, Deputy City Recorder
EXCUSED	Councilmember Tom Macdonald

Agenda Review

The Council and staff reviewed the agenda items.

City Council New Business

There was no new City Council new business.

The Council adjourned at 5:55 p.m. to the City Council Chambers for the regular meeting.

6:00 P.M. REGULAR SESSION

CONDUCTING

Mayor Richard F. Brunst, Jr.

ELECTED OFFICIALS

Councilmembers Hans Andersen, Margaret Black, Mark E. Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Bill Bell, Development Services Director; Jason Bench, Planning Division Manager; Karl Hirst, Recreation Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Library Director; Steven Downs, Assistant to the City Manager; and Taraleigh Gray, Deputy City Recorder

EXCUSED

Councilmember Tom Macdonald

**INVOCATION /
INSPIRATIONAL THOUGHT
PLEDGE OF ALLEGIANCE**

Bob Wright
Carlos Garcia

APPROVAL OF MINUTES

Mr. Sumner **moved** to approve the minutes Jun 11, 2014, Joint City Council/ASD Meeting. Mr. Seastrand **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard F. Brunst, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**.

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

Upcoming Events

The Mayor referred the Council to the upcoming events listed in the agenda packet.

Appointments to Boards and Commissions

No new appointments to Boards and Commissions were made.

Recognition of New Neighborhoods in Action Officers

No new Neighborhood in Action officers were recognized.

CITY MANAGER APPOINTMENTS

There were no City Manager appointments.

PERSONAL APPEARANCES

There were no public appearances.

CONSENT ITEMS

There were no consent items.

SCHEDULED ITEMS

6:20 P.M. PUBLIC HEARING – PD-4 Zone

ORDINANCE - Amending Section 22-11-16(E)(5) of the Orem City Code pertaining to building orientation in the PD-4 zone

Mr. Bench presented an applicant request for a text amendment to the PD-4 zone. The PD-4 zone was located on the south east corner of the intersection of 800 East and 800 North. It was the current location of Harmon's grocery store and The Orchards Shopping Center. At the time the overall site plan and zone was approved for Harmon's and the existing shopping center, two pad sites were also approved. One of those pad sites had been developed into the Harmon's gas station. The pad site to the west had been vacant for years. There was an application for a new Dairy Queen proposing to locate on the vacant pad site.

The PD-4 ordinance did not allow buildings to face east or south. That standard was put in the ordinance so that the existing buildings could not face into a residentially zoned area at the time of development, but would instead face towards 800 North and 800 East, both major collector streets. The major entrances and facades of the existing building all face north. The PD-4 zone is enclosed by a seven foot masonry wall on the east and south sides which shields the commercial building elevations from the residential areas.

The proposed amendment would allow buildings to face any direction, except south. This would allow the proposed Dairy Queen to develop their site with a more architecturally pleasing east building elevation, which includes an entrance.

Advantages:

- Provides more building elevation options
- Improves the façades of east facing elevations to include more attractive entrance features

Disadvantages:

- None determined

The proposed amendments are outlined below:

22-11-16(E)(5)

5. Building Orientation. No building shall face east or south. The only building accesses permitted toward the north and south residential zones shall be emergency accesses only as required by the Uniform Building and Fire Codes.

Mr. Sumner asked if it would increase traffic in the area.

Mr. Bench said it should not.

Mayor Brunst invited the applicant to come forward. John Bylund introduced himself to the Council and said he looked forward to the possibility of bringing Dairy Queen back to Orem.

Mayor Brunst asked if he was involved in the previous Dairy Queen.

Mr. Bylund said he had known the previous owners but had not been involved with the business.

Mayor Brunst opened the public hearing. When no one came forward, Mayor Brunst closed the public hearing.

Mr. Andersen **moved**, by ordinance, to amend Section 22-11-16(E)(5) of the Orem City Code pertaining to building orientation in the PD-4 zone. Mayor Brunst **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard F. Brunst, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0.

RESOLUTION - Conditional Use Permit and Site Plan Approval – Dairy Queen – 810 East 800 North in the PD-4 zone

Dairy Queen was previously located on 800 North, east of the Macey's grocery store for over twenty-five years. In 2007, a street widening project forced the closure of the store and the owners felt it was time to let the business go. After not having a Dairy Queen in the city for the last seven years, the applicant, who owns and runs the Dairy Queen in Santaquin, proposed to construct a new restaurant on an existing pad site in the Orchards Shopping Center located at the above address. According to the PD 4 ordinance, a conditional use permit was required for any use with a drive-up or drive through window.

Architecture: The proposed building contains approximately 3,104 square feet and would be twenty-one feet high. Building elevations showed the exterior to be finished with stucco, cultured stone and colored metal paneling with several window and door openings as well as decorative sign display areas. The proposed building materials were not specifically listed as approved materials in the PD-4 zone, however, the ordinance allowed the Planning Commission to approve other materials that are not specifically listed, but are still in harmony with the existing buildings in the zone. The Planning Commission reviewed the elevations and recommended the proposed elevations be approved as part of the site plan. The existing Harmon's store and adjoining buildings part of the Orchards Shopping Center contain stucco and metal elements.

The building elevations for the proposed Dairy Queen show an entrance on the east side of the building, which was previously not allowed. A proposal for a zoning ordinance amendment had been made by Development Services and the Planning Commission recommended approval. The City Council would consider an amendment to the current PD-4 ordinance to allow buildings to face east, as proposed.

Parking: A previously approved site plan for the Orchards Shopping Center required a total of 441 stalls for the entire site. Currently there are 491 stalls. Some existing perpendicular parking stalls to the east and north of the proposed building would be repainted as diagonal parking stalls and would function as one-way traffic around the drive-thru sides of the building. This change in parking stalls decreased the overall number of stalls by a total of 14. Including the stalls lost as part of the diagonal parking configuration, the overall site contained 477 total stalls, 67 of which were allocated for the restaurant, but act as shared parking for the entire site.

Fencing: No fencing was proposed.

Landscaping: The existing landscaped island north of the proposed building would be expanded to run the entire length of the drive-thru area and the other island adjacent to the existing pad site would remain as landscaping. All landscaping requirements had been met with the existing site. The site plan included a large outside dining area located to the east of the new restaurant.

Dumpster: The dumpster would be located to the south of the building and would be enclosed on all sides and match the proposed building materials as required by code.

Transportation/Engineering: No transportation issues or concerns had been identified.

Conditional Use Considerations: According to Section 22-4-4 there were several factors to consider regarding conditional uses. The following factors applied to the proposed fast food restaurant:

- It was in harmony with the master plan and zoning ordinance objectives by providing a shopping convenience in the area.
- It was in harmony with existing uses in the neighborhood and with other uses such as a restaurant, gas station, and other stores of convenience located within the same shopping center.
- It would have a positive economic and aesthetic impact on the neighborhood by building an attractive building on a vacant lot.
- It would improve traffic flow through the development by repainting the parking stalls adjacent to the drive-thru window to provide a wider access lane in that location.
- The subject property was suitable for the proposed use as other convenience-related businesses were situated nearby.
- The applicant had worked with the current owners of the businesses located in the shopping center as the project developed, specifically as it related to the location of the dumpster.

Mrs. Black **moved**, by resolution, to approve a conditional use permit and site plan for Dairy Queen at 810 East 800 North in the PD-4 zone. Mr. Seastrand **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard F. Brunst, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0

6:30 P.M. PUBLIC HEARING – Street Vacation

ORDINANCE – Vacating a portion of 1200 West Street located between 780 North and 800 North

Mr. Bench presented a staff request for a street vacation. Several years ago, a portion of 1200 West located on either side of 800 North was relocated to the east to increase the separation between 1200 West and the I-15 800 North on-ramp. This left a section of the old 1200 West Street that now dead ends into 800 North and is unused except by those businesses that are still located adjacent to that old section of 1200 West.

Rocky Mountain Land Holdings owns the property just east of the old 1200 West at 796 North. Rocky Mountain has requested that the City vacate that portion of the old 1200 West that is

adjacent to their property. Rocky Mountain would like to combine the vacated street area with their existing lot and put it to productive use.

Typically, when a public street that the City acquired by dedication or prescription is vacated, title to the vacated street area automatically vests in the adjoining property owners, with half the street area going to each side. However, because title to the street was not obtained solely by dedication or prescription in this case, it is not totally clear who will own the area of the street upon a vacation. In particular, the middle section of the street was conveyed to the county in 1938 by a private property owner who included a reservation in the deed stating that the property would revert to the original owner if the area ever ceased to be used as a street. There are several legal questions regarding the effectiveness of this reservation, but if the street is vacated as requested, Rocky Mountain may have to file a Quiet Title action to obtain clear title to the vacated area.

Questar owns the property on the west of the proposed street vacation and apparently does not object to Rocky Mountain taking ownership of the entire street vacation area provided they are able to maintain access across the vacated area. If the request to vacate is granted, a twenty foot wide access easement for ingress and egress in favor of Questar should be retained as well as a public utility easement across the full width of the vacated street area.

State law provides that the City Council may vacate a public street if it determines (1) there is good cause for the vacation; and (2) the vacation will not be detrimental to the public interest.

Additionally, the new owners should (after quieting title to the vacated area) be required to record a new subdivision plat that combines the street vacation area with their existing lot. The new plat should also show the Questar Gas access easement and a public utility easement over the entire vacated area.

Mayor Brunst opened the public hearing. When no one came forward, Mayor Brunst closed the public hearing.

Mayor Brunst **moved**, by ordinance, to vacate a portion of 1200 West Street located between 780 North and 800 North and consisting of approximately .42 acres. Mr. Andersen **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard F. Brunst, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0.

RESOLUTION – Development Agreement – Midtown Village - 320 South State Street
Approving a Development Agreement between the City and Coronado Village, LLC
Pertaining to Midtown Village

Mayor Brunst recused himself from both Midtown discussions and votes.

****The Mayor left the meeting at 6:20 p.m.*

Coronado Village, LLC has a contract to purchase the Midtown Village property and desires to complete construction of that project. Coronado Village desires to modify the original development plan somewhat to move the west tower closer to Orem Boulevard and to increase

the number of residential units on the project. The proposed ordinance changes to the PD-23 zone will be considered by the City Council as a separate item.

If the proposed amendments to the PD-23 zone are approved, the number of residential units will increase which will in turn increase the amount of traffic generated from the project. Coronado Village has agreed to make certain street improvements to help mitigate the impacts of this increased traffic including constructing a right-turn lane from 400 South onto Orem Boulevard and participating (50%) in the cost of constructing a right-turn lane from 400 South onto State Street. City staff and Coronado Village would like to include these commitments in a development agreement.

In addition, there is an existing development agreement recorded against the property that was executed between the City and the original developer in February 2006. This prior development agreement governed how the City-owned parking areas were to be operated and maintained.

Coronado Village would like to pay off the SID assessments that were levied against the property and would like the City to convey the City's interest in the City parking area to Coronado Village after the SID bonds are paid off. In order for this to happen, the City would need to declare the City parking area surplus and follow the procedures for disposing of surplus property outlined in City Code Section 2-7-10(D).

Coronado Village would like to enter into a new development agreement with the City that indicates that the prior development agreement will be of no further effect (it will not be needed if Coronado Village owns the entire parking structure) and that also outlines the process under which Coronado would pay off the SID assessments and would potentially obtain the City's interest in the underground parking.

In summary, the main points of the proposed development agreement are as follows:

1. The prior development agreement of 2006 will have no further effect.
2. The site plan and plat that were previously approved for the project continue to be valid and the developer can complete construction according to the approved site plan and plat or can amend the site plan and plat in conformance with City ordinances.
3. The developer has the right to assign all or a portion of the property.
4. The developer may construct the project in phases.
5. At the time of closing on the purchase of the Property, Coronado Village will deposit in escrow an amount sufficient to pay off the SID assessments on the property.
6. The City agrees to initiate the process of declaring its interest in the underground parking surplus within 15 days after Coronado Village closes on the purchase of the property.
7. In the event that the Council agrees to convey the City's interest in the underground parking to Coronado pursuant to the City's surplus property procedures, the amount held in escrow will immediately be used to pay off the SID assessments. If the City Council does not agree to convey the City's interest in the parking units to Coronado Village, the amount held in escrow will be immediately returned to Coronado.
8. Coronado agrees to construct or to participate in the construction of right turn lanes from 400 South onto Orem Boulevard and State Street as described above.

Mr. Andersen entertained a motion for continuance to an indefinite date.

Mrs. Black **moved** to continue the discussion to an indefinite date. Mr. Spencer **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 5-0.

CONTINUED DISCUSSION – Midtown Village

ORDINANCE - Amending portions of Section 22-11-36 and Appendix “R” of the Orem City Code pertaining to the PD-23 zone at 320 South State Street

This request was continued from the June 17, 2014, City Council meeting to allow additional time to review the proposal and for legal staff to continue working on a development agreement.

The PD-23 zone (Midtown Village) was approved by the City several years ago as a mixed-use development. The south tower has been largely completed, but work stopped on the north tower after the onset of the recession of 2007-2008. Since 2008, the project has been the subject of numerous lawsuits and a foreclosure which ultimately left ownership of most of the project in the hands of MVP Management, LLC which is owned primarily by the contractors and subcontractors who worked on the project.

Since taking over ownership in early 2012, MVP Management has looked for a partner or buyer for the project. Most recently, MVP has been working with the Ritchie Group regarding a potential sale of the project. The Ritchie Group is proposing to make a number of modifications to the original plan and would like to have City Council approval of their proposal prior to making a final commitment to purchase the project.

The most significant change would be a major change in the design and layout of the west building. Instead of attaching the west building to the north and south towers as originally planned, the applicant is proposing to construct two buildings adjacent to Orem Boulevard. These two buildings would be set back 25 feet from Orem Boulevard instead of the 80 foot setback that would have applied to the original west building plan. The west buildings would be five stories high and would contain approximately 298 apartment units.

In addition to the major change to the west building, the applicant is also proposing the following additional amendments:

1. **Name Change.** Change the name of the project from Midtown Village to 360 Place.
2. **Main Floor Use.** Eliminate the requirement that the main floors of each building be devoted to retail uses. Allow 20 percent of the main floor area of the north and south towers to be used for noncommercial purposes and allow any commercial use (not just retail) on the remaining 80 percent. Eliminate any commercial use requirement on the main floor of the west buildings. The applicants are proposing to include a recreation area and other amenities for the tenants on the ground floor of the south building.
3. **Reduce Parking Requirement.** Reduce the parking requirement for residential units in excess of the base residential density from two per unit to 1.65 per unit. The base residential density is determined by taking the number of required commercial parking stalls and dividing by three. The base residential units share the parking with the commercial space and so do not require additional parking. The concept of shared

parking works because the demand for commercial and residential uses occurs at different times.

The total required parking under the applicant's proposal would be calculated as follows. Since the applicant proposes having approximately 97,000 square feet of commercial space, 387 parking stalls would be required for the commercial uses based on the standard requirement of 1 stall per 250 square feet of commercial space. This number divided by three yields 129 base residential units. Since the applicant is proposing an additional 420 units above the base residential units, an additional 1.65 stalls would be required for each of these units for a total of 693 additional required parking stalls. The applicant is also providing a total of 60 parking stalls for the large residential units (60 units total) that could have occupancy of up to five individuals. The 387 commercial stalls, plus the 693 stalls, plus the 60 stalls results in a total of 1140 required stalls under the applicant's current proposal and the applicant currently plans on providing 1123 stalls on site, plus an additional 36 parking stalls provided through a parking agreement with Pep Boys for a total of 1159 parking stalls.

4. **Increase Allowable Building Height.**
 - a. State that no more than 65 percent of rooflines can exceed 70 feet instead of the current 60 feet.
 - b. Provide that height limits don't apply to mechanical systems, roof-top shade structures, elevator shafts, etc., and that such appurtenances can extend up to a height of 111 feet.
 - c. No building located within eighty (80') feet of Orem Boulevard may exceed a height of sixty-two (62') feet.
5. **Setbacks.**
 - a. Reduce the setback from Orem Boulevard from 80 feet to 25 feet.
 - b. Change the current requirement that the portion of a building greater than 60 feet in height must be set back at least 160 feet from a residential zone to say that the portion of a building at least 80 feet in height must be set back 80 feet from a residential zone.
6. **Exterior Finish Materials.** Allow concrete masonry unit (CMU) block to be used as an exterior finish material. Also allow metal to be used for up to 20 percent of the exterior finish materials.
7. **Signage.** In addition to signage already allowed by the sign ordinance and the existing PD-23 zone, allow the following additional signage:
 - a. One monument sign at the entrance to the project at State Street and one monument sign at the entrance at Orem Boulevard. Each of these monument signs would be limited to eight feet in height and 15 feet in width.
 - b. A "crown" sign that would be located at the top of either the north or south tower that would identify the project. This sign would consist of lettering on a flat face and would be allowed to be up to 15 feet in height and 30 feet in width.
 - c. One additional vertical wall sign for each building that would be used to identify the project or the address of the project. These signs could be 40 feet in

height and four feet in width. The vertical wall signs would conform to the general design and quality of the vertical wall signs shown in the concept plan.

8. **Sidewalk.** Require a buffered sidewalk on Orem Boulevard with a six foot sidewalk and an eight foot planter strip.
9. **Large Residential Units.** Allow up to forty-two (42) residential units having at least 1,700 square feet to have up to five unrelated individuals live in the unit.

Advantages

- Provides a new plan to develop the PD-23 zone which has remained unfinished and unsightly for several years.
- Adds additional residential housing options for the community.
- Rebranding helps remove the stigma of the unfinished Midtown Village project
- Adds a buffered sidewalk to Orem Boulevard.

Disadvantages

- Buildings closer to Orem Boulevard may impact lots to the west
- Traffic will increase with the additional units proposed; however, the proposed improvements with this project will help mitigate negative impacts.

Mr. Bench provided a point of clarification with the traffic generated by the project.

Mrs. Black asked about traffic concerns and what was being done to mitigate them.

Cordell Brady, Hales Engineering, reported that a traffic impact study was performed, as well as parking analysis for the development. The two mitigation measures being discussed are both on 400 South.

- Right turn pocket on 400 S. turning to go North onto Orem Boulevard.
- Right turn pocket on 400 S turning South on State Street.

Mr. Sumner asked for a timeline on those mitigation factors.

Mr. Brady said he was unaware if there was one, but that the timing could be explored.

Mr. Seastrand asked for an idea of what direction the traffic would be going.

Mr. Brady showed a figure that displayed the anticipated traffic during peak evening hours. He said some of the trips generated would not necessarily leave the site. By converting the square footage from commercial to residential it would decrease the overall traffic aspect.

Mr. Spencer asked if people would turn right on 400 South to head west.

Mr. Brady said a small portion would do that. A lot of people would choose to use a traffic light to turn left instead of turning left onto State Street.

Mr. Spencer asked Mr. Bench about adding additional stop signs or stop lights on Orem Boulevard.

Mr. Davidson said the transportation specialist would have to consider whether or not those additions were warranted and on the priority list.

Mr. Seastrand asked for any other input from Mr. Brady. Mr. Brady restated that the changes presented would generate fewer trips than what the Council had already approved.

Mrs. Black said she wanted to make sure everyone understood why there would be less traffic—that commercial space generated more trips all day long, where residential space generated far fewer trips.

Mr. Seastrand said resident concerns boiled down to traffic as well as parking.

Mr. Brady showed an exhibit that demonstrated each parking use. The minimum parking stalls needed for the project was around 900. The developer was proposing to provide 1,159 stalls, with a reserve capacity of approximately 280 stalls.

Mr. Seastrand asked where excess residential parking would go.

Mr. Brady said, if there was more than a 50 percent increase in parking, then they would park on nearby streets.

Mr. Bench added that some parking would be available in the cross-easement with Pep Boys.

Mr. Spencer asked if that was a long-term agreement.

Mr. Bench said it was.

Mr. Newitt stepped forward and noted some of the challenges with the project and reasons why the project had originally failed.

- Luxury condos on State Street in Orem, limited market
- Poor market conditions

Ryan Ritchie highlighted the architecture and said the developer was trying to capture what the target market wanted.

Mrs. Black asked about the colors.

Mr. Ritchie said the color scheme would consist of neutrals and grays.

Mr. Ritchie discussed landscape plans, noting the increased setback on Orem Boulevard which the developer proposed to increase from twenty to twenty-five feet.

Mrs. Black asked who the target renters would be.

Mr. Newitt gave the following examples for targeted renters:

- Gen Y (Aged 18-35)
- Young Single Professionals
- Young Married Couples

- Small Families
- Medium Families
- Empty Nesters
- Corporate
- P/T Working Students
- F/T Students

Mr. Newitt said the project was not designed to be a student facility, though some students could end up residing there. He then discussed the proposed unit mix:

- North Tower – 157 Units
- West Buildings – 298 Units
- South Tower – 89 Units
- Aggregate Unit Mix (544 Units)

Mr. Spencer asked if there was any conversation taking place with the Alpine School District.

Mr. Newitt said there had been none yet.

Ms. Mandy, with Alliance Residential Company—a property management company working for the developer, discussed the occupancy requirements for the development. She said the allowable occupancy was up to two people per bedroom, only allow two people were allowed in a studio unit. Alliance had the practice of screening prospective tenants, and anyone living in the unit over the age of eighteen would have to qualify. Alliance typically checked the following facts prior to renting to a prospective tenant:

- Current employment
- Income
- Criminal background

Ms. Mandy indicated that Alliance was a highly respected property management company. As a matter of practice Alliance did not override denials, and no felons were allowed.

Mr. Newitt added that security and access control would be in place.

Mr. Seastrand asked how Alliance would manage the cars per unit. Mandy said most adults would be assigned one parking stall; everything else would be managed on a first-come, first-served basis.

Mr. Seastrand asked about student rentals.

Mr. Newitt said rents would be higher for the development than what was found at other student housing projects.

Mr. Sumner asked how the students in the unit would be policed to ensure no more than five would occupy the unit.

Ms. Mandy said the property management company would perform periodic checks to ensure tenants were complying with contracts.

Mr. Earl drew attention to the developer's intent to ask for a two-year extension on site plan improvements.

Mr. Seastrand asked how the project would be phased.

Mr. Newitt said the south tower would be first, and the developer would then work on finishing the north Tower. When the north tower was eighty percent occupied, the developer would build the west buildings. The overall plan could take four to six years to complete.

Mr. Seastrand asked about water pressure impacts.

Mr. Newitt said they would connect the water loop.

Mrs. Black asked if the density was less.

Mr. Ritchie said there were more units, and more bathrooms, but less square footage.

Mr. Spencer asked Mr. Bench how many units the PD zone could have.

Mr. Bench said there was no cap on the number of units allowed; it was only based on parking.

Mr. Spencer asked how 1.65 parking stalls per unit was going to work. Mr. Newitt said that was why they had hired an engineering firm to look at the parking aspect of the project. A large part was time of use, with the mixed use of commercial and residential.

Mr. Seastrand asked what reassurance was available for the City Council that the project would be completed as proposed.

Mr. Newitt said it came down to the right use and right client, and if it was financially feasible. If it could not be underwritten, then the likelihood of success was null. Mr. Newitt said the developer had a good track record.

Mr. Ritchie said the development would be taken in chunks, not all at once. He said they were holders, and that they believed in the market.

Mr. Spencer asked about a sound wall on the west side of Orem Boulevard.

Mr. Ritchie said no sound wall was contemplated.

Mrs. Black asked for per month cost.

Mr. Ritchie said average would be \$1,100-\$1,150 per month base rent. Add-ons would include utilities on top of base rent.

Mr. Sumner moved to allow public comment on the agenda item.

Mike Ware said he was dissatisfied that public comment was not going to be allowed. He voiced concern over the set-backs on Orem Blvd. and the parking for the project.

Lynn Campbell expressed concerns about the traffic on Orem Boulevard. She said she did not want 400 South to become as busy as 800 South. She said she did not feel the action on the City's part was extremely responsible.

Kent Hornberger said he was a developer. He said he did not think the parking was adequate and the traffic study was a lie. He was also concerned about water to the project.

Mike Garrett said the Council should consider the Peay development just south of the complex. There was additional traffic to that project that was not initially considered. He asked about what happened to the concept of the Hale Theater in the original concept plan. He did not understand how there were more units with fewer cars and less demand on the water service. He wondered about the impact of more students on Orem elementary.

Ross Cheeseman voiced concern about the lack of protection for those who had bought into the project. He said he did not like people being kicked out of the homes they had purchased, and he had concerns about the generalities given in the presentation.

John Wible said he was concerned that it would take five years to landscape the project. He did not think landscaping would take a lot of money and suggested putting in the landscaping before the buildings were put up for rent. He recommended that the item be continued to allow those who were not informed to get information.

John Bishop said students and young families had multiple cars. He said he thought Orem needed to get a vision, to attract the community, and high density apartments would not provide that vision.

Phil Hornberger said he was concerned about the unintended consequences of all the rental units that had recently been approved by the Council. He wondered what would happen to the fourplexes just west of the project. He said he believed the parking was not adequate for the project. He voiced concern about the setbacks on Orem Boulevard. He wondered how many emails had been received in opposition.

Thayne Bailey said he thought there were good comments and concerns being heard. He hoped the project would get done sooner than later. He said he did not think it was fair to compare the project to Alpine Village. Brigham Young University did attract a higher income level of student. He did not think there would be very many students occupying the space.

Chris McFadden expressed concern about the inadequate notice, the parking, and the setbacks on Orem Boulevard.

Jim Fawcett said it was calm along Orem Boulevard before the erection of the project initially. He said it was hard to make left hand turns onto Orem Boulevard and thought the property should be left to the east for the road to be widened eventually. He voiced concern about the parking. He said he liked the idea that the project was being looked at.

Bob Wright said public input was not legally required. He said he appreciated that the public was being permitted to make public comment on the item.

Gary Kummer said he was concerned about the noise the development would generate.

Kent Andersen said he worried for people who occupy the space that there was not room for customers to come into the restaurants. He voiced concern that the parking density would be too crowded for the businesses to have success. He said he understood people might want to live near quality shops and housing, but the density was a problem.

Mr. Andersen turned the time back to the Council.

Mrs. Black asked if the developers had reserved spots for commercial property.

Mr. Ritchie said there would be programming behind the parking. The developers were considering many factors to make the retail work. The project was programmed at 5 parking stalls per 1,000 square feet.

Mr. Seastrand said he had received twenty or so emails, and though most people had been excited that something was being done there they had concerns with traffic and parking. The traffic was not an issue because of one development; it became an issue when the community continued to grow. As a city, there were strategies in place to mitigate and manage the traffic concerns throughout Orem. Mr. Seastrand said the Council was looking at what could be done to mitigate the concerns and reported receiving a few emails that opposed the project altogether. Mr. Seastrand said he was not sure if another offer would come along to finish the existing development.

Mr. Davidson said there was regular coordination with the Utah Department of Transportation (UDOT). Many of the key arterial routes were state highways, not under the jurisdiction of Orem. At the same time, the City maintained a transportation master plan which would be updated during the following year.

Mr. Sumner said he traveled 400 South every day, and there were several times where he had to wait to turn left at the light on to State Street. He said he was concerned about the priority list of the right hand turn lane onto State Street from 400 South. He said he was disappointed the developers had not talked to the Alpine School District. He did not understand why so much less parking would be permitted. He voiced concern about the water issues, the setbacks, and noticing for the project. He wished there were more neighborhood meetings. He asked the developer to address people getting kicked out.

Mr. Newitt said no one was being kicked out of the project. Discussions with current owners had taken place to buy owners' units at market rates. There was no force involved.

Alan Krudscamp said there were a total of four owners who paid cash for the units. Banks would not lend on those units. All four of the owners had reached agreements to sell to the developer.

Mr. Spencer said he believed it was a viable project. He asked if there would be parking under the west buildings.

Mr. Newitt said there would be.

Mr. Spencer asked how many units could be built based on the previous approval.

Mr. Bench said, based on approval from 2007, 464 units could be built.

Mrs. Black said she appreciated comments and acknowledged the fear and natural concern that everyone had with the development. She said she was pleased the developer had made mitigating efforts to bring down heights and increase setbacks. She was very encouraged that the developer planned to implement good landscaping. Mrs. Black said the project needed to be finished. As a Council member, Midtown was her most frequently asked question. Mrs. Black encouraged that turn lanes be implemented at appropriate times in the phasing process, going along as the buildings are constructed.

Mr. Seastrand **moved** to continue discussion on the agenda item to July 22, 2014. The motion **failed** for lack of a second.

Mr. Andersen **moved** to amend various portions of Section 22-11-36 and Appendix “R” of the Orem City Code pertaining to the PD-23 zone at 320 South State Street, with a two year extension granted to the developer for completion of public improvements. Mr. Spencer **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Mark E. Seastrand, and David Spencer. Those voting nay: Mr. Sumner. The motion **passed**, 4-1.

Mr. Sumner restated his concern about the priority list of traffic issues.

The Mayor returned to the meeting at 9:15 p.m.

COMMUNICATION ITEMS

Mr. Davidson made the Council aware of the negotiations taking place regarding an agreement between the University Mall shopping center and the City of Orem concerning the acquisition of 1,500 square feet of space. Woodbury was intending to trade maintenance for the City’s park strip along 800 East, for the .03 acre piece of property near 800 South and 900 South. An appraisal had been performed which assessed the property at \$20,800. In lieu of compensation for the property, Woodbury agreed to maintain the City’s park strip along 800 East for the next 25 years. A contract would be in effect to dictate what would occur should either party exit the agreement prior to its expiration.

Mr. Davidson notified the Council of the food truck activities on Monday nights. The SCERA was coordinating the event, and the City staff would get the details on staging and distribute it to the Council.

ADJOURNMENT

Mr. Andersen **moved** to adjourn the meeting. Mr. Seastrand **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Richard F. Brunst, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

The meeting adjourned at 9:21 p.m.

Donna R. Weaver, City Recorder

Approved: July 22, 2014